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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/924,671	08/07/2001	Kevin Miller	ORCL 2000-070-01	3662

7590 04/19/2007
WAGNER, MURABITO & HAO LLP
Third Floor
Two North Market Street
San Jose, CA 95113

EXAMINER

GREIMEL, JOCELYN

ART UNIT	PAPER NUMBER
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3693

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/924,671

Applicant(s)

MILLER ET AL.

Examiner

Jocelyn Greimel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This communication is in response to Applicant's Amendments and remarks filed 19 January 2007.

Status of Claims

2. Claims 1-12 are currently pending. Claims 1 and 8 are independent claims. No claims are currently amended.

3. The Examiner acknowledges the Applicant's remarks regarding the Oath or declaration. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02. The oath or declaration is defective because: it does not identify the citizenship of each inventor.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Alaia et al (US Patent No. 6,199,050, hereinafter Alaia).** In reference to claim 1, Alaia discloses: in an electronic commerce exchange, an auction method for implementing automatic extension of an auction in response to bidding activity from auction

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participants, comprising the steps of: setting an end time for concluding an auction (col. 4, lines 12-40); receiving bids from remote bidders via a distributed computing network (col. 4, lines 12-65); determining whether a predetermined number of bids are received within a predetermined time of the auction end time; if a greater number of bids are received within the predetermined time, extending the duration of the auction automatically and setting a new auction end time; and notifying auction participants of the new auction end time (col. 6, lines 30-67; col. 7, lines 1-31).

6. In reference to claim 2, Alaia discloses the auction method further including the step of setting a start time of the auction (col. 4, lines 12-40).

7. In reference to claims 3 and 4, Alaia discloses the auction method wherein the predetermined number of bids is user defined. Alaia discloses the auction method wherein the predetermined time is user defined (col. 4, lines 23-40; col. 6, lines 63-67; col. 7, lines 1-30; col. 14, lines 23-59).

8. In reference to claims 5 and 6, Alaia discloses the auction method wherein the duration of the extension from the new auction end time is user defined. Alaia additionally discloses the auction method, which further includes the step of extending the duration of the auction a plurality of times where the greater number of bids is received within the predetermined time respectively (col. 4, lines 23-40; col. 6, lines 63-67; col. 7, lines 1-30; col. 14, lines 23-59).

9. In reference to claim 7, Alaia discloses the auction method further including the step of setting a minimum bid difference at which a succeeding bid must differ from a preceding bid from the remote bidders (col. 6, lines 63-67; col. 7, lines 1-30; col. 14, lines 23-59).

10. In reference to claim 8, Alaia discloses: in an electronic commerce exchange, an auction method for implementing dynamic automatic extension of an auction in response to bidding activity from auction participants, comprising the steps of: setting a start time and an end time for an auction; receiving bids from remote bidders via a distributed computing network; setting a minimum bid difference at which a succeeding bid must differ from a preceding bid from the remote bidders; determining whether a predetermined number of bids are received within a predetermined time of the auction end time; if a greater number of bids are received within the predetermined time, extending the duration of the auction automatically and setting a new auction end time; and notifying auction participants of the new end time (col. 4, lines 23-40; col. 6, lines 63-67; col. 7, lines 1-30; col. 9, lines 3-41; col. 14, lines 23-59).

11. In reference to claims 9 and 10, Alaia discloses: the auction method wherein the predetermined number of bids is altered dynamically after the start time of the auction. Alaia additionally discloses the auction method wherein the predetermined time is altered dynamically after the start time of the auction (col. 9, lines 3-41).

12. In reference to claim 11, Alaia discloses the auction method wherein the duration of the extension from the new auction end time is altered dynamically after the start time of the auction (col. 9, lines 3-41).

13. In reference to claim 12, Alaia discloses the auction method further including the step of extending the duration of the auction a plurality of times where the greater number of bids are received within the predetermined time respectively (col. 7, lines 19-31; col. 9, lines 3-41).

Response to Arguments

14. Applicant's arguments with respect to the rejection of claims 1-12 under 35 U.S.C. 102(b), filed 19 January 2007 have been fully considered but they are not persuasive. Therefore, claims 1-12 remain rejected as stated in the previous Office Action and Applicant's request for allowance is respectfully declined.

15. In response to Applicant's arguments that the reference (Alaia) teaches away from extending the duration of auctions, the Examiner respectfully disagrees. Alaia teaches every element of Applicant's claimed invention. Alaia not only teaches extending auctions as described by Applicant but teaches additional features such as automatically moving forward the start time of subsequent auctions.

Conclusion

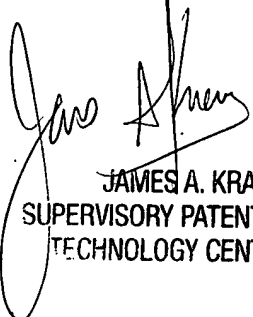
16. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached Monday - Friday 8:30 AM - 4:30 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached at (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status

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information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel
Examiner, Art Unit 3693
April 9, 2007

 4/16/07
JAMES A. KRAMER
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TECHNOLOGY CENTER 3600